

displaying the product label display by geographic region when the product label display is desired;

querying the user for product purchase;

determining whether the product purchase is desired;

adding product to purchase list when desired;

determining whether a dealer location is needed, when dealer location is needed displaying the dealer location;

querying user for additional problems; and

B3 determining whether additional problems exist, when no additional problems exist performing the checkout process.--

--28. (Added) The method of claim 1, wherein the geographic region further comprises a state.--

--29. (Added) The system of claim 13, wherein the geographic region further comprises a state.--

--30. (Added) The method of claim 26, wherein the geographic region further comprises a state.--

REMARKS

At the outset, the Examiner is thanked for the thorough review and consideration of the subject application. Applicants greatly appreciate the courtesy extended to Applicants' representatives during an Examiner interview conducted on August 6, 2002. The substance of the interview was incorporated into the interview summary.

Claim 17 is canceled. Claims 1-16 and 18-25 are amended. Claims 26-30 are added. By the above amendments, claims 1-16 and 18-30 are pending. No new matter is added.

In the Final Office Action the Examiner rejected claims 1-2, 8-15, and 21-25 under 35 U.S.C. § 102(e) as being anticipated by Gerald et al. ("Taking A Spade To The Web"); claims 3 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gerald et al.; and claims 4-7 and 17-20 and under 35 U.S.C. § 103(a) as being unpatentable over Gerald et al. in view of Sturgeon et al. (U.S. Pat. No. 5,726,884). Applicants respectfully traverse the rejections and reconsideration is hereby requested.

The Examiner rejected claims 1-2, 8-15, and 21-25 under 35 U.S.C. § 102(e) as being anticipated by Gerland et al. Applicants respectfully traverse these rejections and reconsideration is hereby requested.

Claim 1 is allowable over the cited references in that claim 1 recites a combination of elements including, for example, "querying a user for at least one geographic region; receiving the at least one geographic region from the user; querying the user for the location of a gardening problem within said geographic region; receiving the at least one gardening problem from the user; querying database and generating a series of questions in response to the received at least one gardening problem; receiving a response to the series of questions from the user; querying the database and identifying at least one gardening material based upon a response to at least one of the querying." None of the cited references, singularly or in combination, teaches or suggests at least this feature of the claimed invention. Accordingly, Applicants respectfully submit that claim 1 and claims 2-12, which depend from claim 1, are allowable over the cited references.

Claim 13 is allowable over the cited reference in that claim 13 recites a combination of element including, for example, "wherein at least one inquiry is directed toward the user's state and the at least one gardening material is identified based at least partially upon the user's state."

None of the cited references singularly or in combination, teaches or suggests at least this feature of the claimed invention.

The Examiner states:

Gerald teaches a method and system for identifying material comprising inputting the inquiry on a computer having a storage device for storing database of gardening material, a user input/output device including an internet browser, a processor connected to storage device and user input/output device to execute the steps of presenting a user with at least one inquiry via input device and identifying at least one gardening material based upon the inquiry, and offering the user the opportunity to purchase at least one gardening material (Office Action at 6.)

It appears that the Examiner has relied on inherency for the combination of elements as recited in claim 13. However, the Examiner has not set forth a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teaching of Gerald et al. Contrary to the Examiner's allegations, Gerald et al. does not teach or suggest "presenting a user with at least one inquiry via the user input/output device; identifying at least one gardening material based upon a response to said inquiry," as recited in claim 13 as filed. Accordingly, Applicants respectfully submit that claim 13 and claims 14-16 and 18-25, which depends from claim 13, are allowable over the cited references.

The Examiner rejected claims 3 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Gerland et al. Applicants respectfully traverse these rejections and reconsideration is hereby requested.

Claims 3 and 16 are believed to be allowable as they depend from claims 1 and 13, respectively. As discussed above, Gerald et al. is deficient as it fails to recite the combination of elements as recited in claims 1 and 13. Additionally, the Examiner purports to rely on official

notice by stating, "Official Notice is taken of both the notoriously well known concept and benefits of displaying a label associated with the gardening material to the user in Gerald." (Office Action at 9.) The Examiner may take official notice of facts outside the record, which are capable of instant and unquestionable demonstration as being "well-known" in the art. As set forth in MPEP § 2144.03, if an applicant traverses an assertion made by an examiner while taking Official Notice, the Examiner should cite a reference in support of their assertion. Applicants hereby traverse all use of Official Notice taken in the present application and respectfully request that the Examiner provide a reference supporting the allegedly notoriously well-known concept and benefits of displaying a label associated with the gardening material to the user in Gerald et al.

The Examiner rejected claims 4-7 and 17-20 under 35 U.S.C. § 103(a) as being unpatentable over Gerland et al. in view of Sturgeon et al. Applicants respectfully traverse these rejections and hereby requests reconsideration.

Claims 4-7 and 18-20 are allowable as the Examiner relies on Sturgeon et al. to cure the deficiencies of Gerald et al. As discussed above, none of the references teach or suggest all the limitations in claims 1 and 13. Therefore, claims 4-7 and 18-20 are allowable by virtue of their dependencies.

Newly added claims 26-30 are believed to be allowable for at least the similar reasons discussed above.

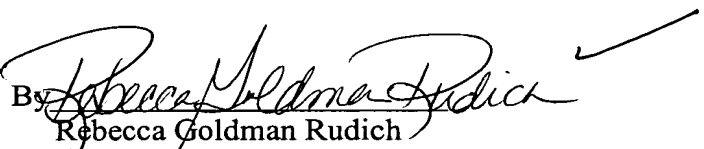
If the Examiner deems that a telephone call would further the prosecution of this application, the Examiner is invited to call the undersigned at (202) 496-7500. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. § 1.136, and any additional fees required under 37 C.F.R. § 1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911.

Dated: January 10, 2003

Respectfully submitted,

By


Rebecca Goldman Rudich

Registration No.: 41,786

MCKENNA LONG & ALDRIDGE LLP

1900 K Street, N.W.

Washington, DC 20006

(202) 496-7500

Attorneys for Applicants



30827

PATENT TRADEMARK OFFICE

VERSION WITH MARKINGS TO SHOW CHANGES MADE

1. (Thrice Amended) A method for identifying a gardening material comprising [the steps of]:

[presenting a user with at least on inquiry;]

[inputting] querying a user [with] for at least one [inquiry] geographic region;

[inputting] receiving the at least one geographic region [inquiry on a computer] from the user;

querying the user for the location of a gardening problem within said geographic region;

receiving the at least one gardening problem from the user;

querying database and generating a series of questions in response to the received at least one gardening problem;

receiving a response to the series of questions from the user;

querying the database and identifying at least one gardening material based upon a response to at least one of the querying.

2. (Amended) The method of [Claim] claim 1, further comprising [the steps of]:

offering the user the opportunity to purchase the at least one gardening material.

3. (Amended) The method of [Claim] claim 1, further comprising [the step of] displaying a label associated with the gardening material to the user.

4. (Amended) The method of [Claim] claim 1, wherein [at least one inquiry is directed toward the user's state and] the at least one gardening material is identified based at least partially upon the user's response to the [inquiry] querying directed toward the [user's state] geographic region.

5. (Amended) The method of [Claim] claim 4, further comprising [the step of] displaying a label associated with the gardening material to the user, wherein the label varies depending the [state] geographic region.

6. (Amended) The method of [Claim] claim 5, wherein the label is a material safety data sheet.

7. (Amended) The method of [Claim] claim 5, wherein the label is a label applied to the gardening material for retail sales.

8. (Amended) The method of [Claim] claim 1, wherein [at least one inquiry] the querying a user for at least one geographic region is directed toward the user's geographic region [of the country] and at least one gardening material is identified based at least partially upon the [user's response to the inquiry directed toward the] user's geographic region [of the country].

9. (Amended) The method of [Claim] claim 1, further comprising [the steps of]:
presenting the user with at least one [inquiry] query directed toward the symptoms of a problem observed by the user; and
identifying a pest based at least partially upon the user's responses to the inquiry.

10. (Amended) The method of [Claim] claim 9, wherein the pest is [a pest selected from the group consisting] one of:] insects, fungi, nematodes, snails, slugs, weeds and diseases.

11. (Amended) The method of [Claim] claim 1, where the gardening material is [a gardening material selected from the group consisting] one of: pesticides, fertilizers and seeds.

12. (Amended) The method of [Claim] claim 1, further comprising the step of displaying a list of retailers from which the gardening material is available.

13. (Amended) A system for identifying a gardening material, the system comprising:
a storage device for storing a database of gardening material;
a user input/output device; and
a processor connected to the storage device and the user input/output device, the processor being configured to perform the steps of:
presenting a user with at least one inquiry via the user input/output device;
identifying at least one gardening material based upon a response to said inquiry;
wherein at least one inquiry is directed toward the user's geographic region and the at least one gardening material is identified based at least partially upon the user's geographic region.

14. (Amended) The system of [Claim] claim 13, wherein the user input/output device includes a computer hosting an Internet browser and is connected to the processor at least partially through the Internet.

15. (Amended) The system of [Claim] claim 13, where the processor is further configured to [performed the step of:

offering] offer the user the opportunity to purchase the at least one gardening material.

16. (Amended) The system of [Claim] claim 13, wherein the processor is further configured to [perform the step of displaying] display a label associated with the gardening material to the user.

18. (Amended) The system of [Claim] claim [17] 13, further comprising [the step of] displaying a label associated with the gardening material to the user, wherein the label varies depending upon the user's response to the inquiry directed toward the user's [state] geographic region.

19. (Amended) The system of [Claim] claim 18, wherein the label is a material safety data sheet.

20. (Amended) The system of [Claim] claim 18, wherein the label is a label applied to the gardening material for retail sales.

21. (Amended) The system of [Claim] claim 13, wherein at least one inquiry is directed toward the user's geographic region [of the country] at least one gardening material is

identified based at least partially upon the user's response to the inquiry directed toward the user's geographic region [of the country].

22. (Amended) The system of [Claim] claim 13, wherein the processor is further configured to [perform the steps of:

presenting] the user with at least one inquiry directed toward the symptoms of a problem observed by the user; and

[identifying] identify a pest based upon the user's responses to the inquires.

23. (Amended) The system of [Claim] claim 22, wherein the pest is [a selected from the group consisting] one of[:] insects, fungi, nematodes, snails, slugs, weeds, and diseases.

24. (Amended) The system of [Claim] claim 13, wherein the gardening material is [a gardening material selected from the group consisting] one of pesticides, fertilizers, and seeds.

25. (Amended) The system of [Claim] claim 13, wherein the processor is further configured to [perform the step of displaying] display a list of dealers from which the gardening material is available.